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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,102	03/12/2004	Michael F. Lieber	8253/13	8937

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EXAMINER

DEVOTI, PAUL D

ART UNIT	PAPER NUMBER
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3637

DATE MAILED: 09/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/800,102	Applicant(s) LIEBER, MICHAEL F.	
	Examiner Paul Devoti	Art Unit 3637	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The amendments to the specification and abstract were received on 10 July 2006. The specification amendment and abstract amendment are acceptable, and the previous objections are removed.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

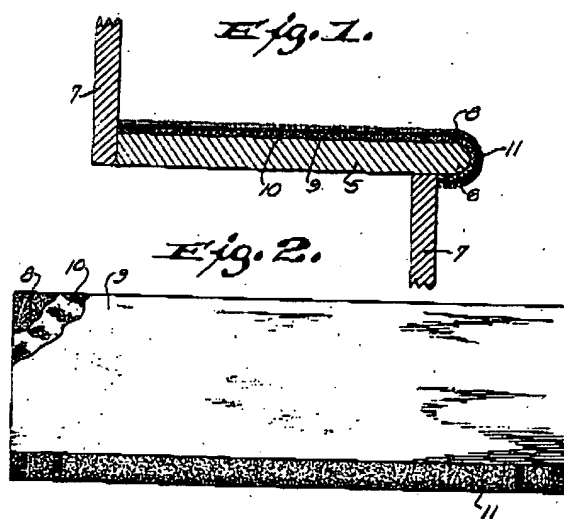
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4-8, 13, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Zedler (US 1795632).
4. Regarding claims 1 and 2, Zedler discloses a stair tread with an upper layer comprised of a rug (8), and a non-skid material (9) provided to an underside of the upper layer. The non-skid material (9) is a layer of rubber, and is inherently capable of enabling the stair tread to remain in place on the top of a stair step without permanently being attached. The stair tread is inherently capable of being easily and quickly removed from a stair step without marring the stair step.
5. Regarding claim 4, the upper layer (8) is made from cotton or wool (lines 51-55).
6. Regarding claim 5, the non-skid material inherently forms a mat.

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7. Regarding claims 6-8, the non-skid material (9) is made of an elastomeric rubber material.
8. Regarding claim 13, the upper layer (8) and non-skid material (9) are fastened together using vulcanizing rubber cement.
9. Regarding claim 15, the non-skid material (9) is a sheet of rubber material.



Zedler (US 1795632) Figures 1 and 2

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zedler (US 1795632) in view of Loudenslager (US 1789875).

12. Regarding claim 3, Zedler discloses everything previously mentioned, but does not disclose the rug (8) of the stair tread is braided. Loudenslager, however, discloses a stair tread with a woven rug (column 2, lines 69-67). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify Zedler's stair tread to include a woven rug, as this would provide a durable top layer which would reduce wear on the stair tread.

13. Claims 9-12, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zedler (US 1795632) in view of Altus (US 4758457).

14. Regarding claims 9, 11, 12, 18, Zedler discloses everything previously mentioned, but does not disclose the upper layer is connected to the non-skid material, using a binding applied to the outer perimeter of the upper layer, where the binding connects the outer perimeter of the upper layer to an outer edge of the non-skid material. Altus, however, discloses a mat (20) with an upper layer (22) connected to a non-skid material (21) using a binding (23) applied to the outer perimeter of the upper layer (22), where the binding (23) connects the outer perimeter of the upper layer (22) to an outer edge of the non-skid material (21). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify Zedler's stair tread to include a binding that connects the upper layer and non-skid layer, where the binding

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is applied to the outer perimeter of the upper layer, and where the binding connects the outer perimeter of the upper layer and outer edge of non-skid material, as taught by Altus to securely attach the upper layer and non-skid layer.

15. Regarding claim 10, Zedler in view of Altus discloses everything previously mentioned, and it would be obvious to use thread of cotton, wool, or polyester, to create a binding between the upper layer and non-skid material.

16. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zedler (US 1795632).

17. Regarding claim 14, a stair tread with a non-skid material, made of rubber, would obviously have a coefficient of friction to prevent skidding.

18. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zedler (US 1795632) in view of Ecker (US 4366200).

19. Regarding claim 16, Zedler discloses everything previously mentioned, but does not disclose the non-skid material is provided as a web of material. Ecker, however, discloses a mat with a non-skid surface with planar strips (12, 14) forming a web of material. Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify Zedler's stair tread to include non-skid web of material, as taught by Ecker to provide an effective non-skid bottom surface.

20. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Zedler (US 1795632) in view of Starp (US 5082712).

21. Regarding claim 17, Zedler discloses everything previously mentioned, but does not disclose the non-skid material is provided in a waffle shaped configuration. Starp, however, discloses a floor covering (10) with a non-skid material (15) in a waffle shaped configuration (16). Therefore, it would have been obvious to one having ordinary skill in the art at the time of invention to modify Zedler's stair tread to include non-skid material with a waffle shaped configuration, as taught by Starp to provide an effective non-skid bottom surface.

Response to Arguments

22. Applicant's arguments filed on 10 July 2006 with respect to claims 1-18 have been considered but are moot in view of the new ground(s) of rejection.

23. Regarding applicant's arguments about Zedler's stair tread: While the examiner agrees that the stair tread as disclosed by Zedler has a hook-shaped edge (11), the layer of rubber at the bottom of the tread has inherent non-skid properties that would allow the tread to stay in place without permanently being attached.

Conclusion

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Devoti whose telephone number is 571-272-2733. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on 571-272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PD *FD*
09/06/06

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